(1)

Supreme Court, U.S.
FILED
JUL 11 1988
JOSEPH F. SPANIOL, JR.
CLERK

Case Number 88-238

United States Supreme Court

Term: 1988

Snavely v Watson and Younger /1

Nature of Proceeding:
Violation of Constitutional Rights;
Trial by Jury, Due Process of Law.
On Appeal from the United States AppealsCourt, Eleventh Circuit and UnitedStates District Court for the Northern District of Alabama.

Title: Jurisdictional Statement.

Counsel of Record:
John D. Snavely Pro Se
3516 Maggie Avenue N. W.
Huntsville, Al 35810
(205) 852-3009

/1. The Attorney General of Alabama is takingthiscase as a case against the State of Alabama.

JURISDICTIONAL STATEMENT

1.0 The questions in this Appeal are:

1.1 Does the Appellant have a right to due processof law, a jury trial, and fundamental fairness when he isthe defendant in a civil action suit?

1.2 Does a Judge have the right to delay a trial for over a year, be influenced by an attorney friend to call for a pretrial hearing a few hours after a malicious suit was filed against the attorney, dismiss a witness before the defendant had on opportunity to completely question the witness, and direct the verdict against the defendant and not allow the defendant the opportunity to argue his case before a jury when the defendant had evidence of fraud being committed against him?

1.3 Does the Appellant have the right to sue a Judge for violating his Constitutional Rights; and have a jury trial?

1.4 Does the Executive Branch of the State of Alabama have the right to defend the Judicial Branch of the State?

1.5 Does a Judge have a right to summarily dismiss an action for fraud when the Appellant was the Plaintiff in the action and has evidence of fraud?

1.6 Do the Alabama Courts have a right to be any type court other than aConstitutional Court and maintain a Common-law jurisdiction?

1.7 Is the directed verdict in contradiction to the Constitution, due process of law and trial by jury?

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LIST OF AUTHORITIES

C1. In a 42-1983 action, NANCE VS RUTGER, (1969, DC WIS) 304 F SUPP 354.

C2. URY VS SANTEE, (1969 DC ILL).

C3. MULLARKEY VS BORGLUM, D.C. N.Y., 1970, 323 F SUPP. 1218, Quoted from USCA 1972 pocket pack 165, TITLE 42, SEC 1983, Note 2.

Article 6 U. S. Constitution.

USC Title 42 Sec. 1983.

2.0 Jurisdiction invoked.

The Jurisdiction of this court is invoked under the Constitution of the United States, the 5th, 7th, and 14th Amendments; and statute USC Title 42 sec. 1983. The nature of the proceeding is violation of Constitutional Rights; due process of law and trial by jury, and improper use of directed verdict and conduct.

2.1 The date of Entry of Judgment by the United States Court of Appeals entered in the above action CV 87-7550 is May 3, 1988 (Appendix A4-A6),a rehearing dateis entered May 31, 1988 (A7) and the date for Entry of Judgment by the District Court of Northern Alabama in above action CV-HM-5143-NE, is May 31, 1988 (A9). The date the Notice of Appeal was filed was June 8, 1988 (A29) in the United States Court of Appeals, Eleventh Circuit and the United States District Court, Northern District of Alabama.

3.0 Constitutional provision.

The Constitutional provision that this case involves is ArticleVI; "The Constitution and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law

of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or the Laws of any State to the contrary notwithstanding."

3.1 The statutory provision believed to confer jurisdiction of the Appeal on this Court is USC Title 42 Sec. 1983. The cases believed to sustain jurisdiction are:

C1. In a 42-1983 action, the complaint and the inferences to be drawn therefrom, upon a motion to dismiss, must be taken most favorably to the plaintiff. NANCE VS RUTGER, (1969, DC WIS) 304 F SUPP 354.

C2. In order to maintain an action under 42 usc 1983, it is not necessary to allege or prove that the defendants intended to deprive plaintiff of his constitutional rights or that they acted willfully, purposely or in pursuance of a conspiracy, it is sufficient to establish that the deprivation of constitutional rights or privileges was the natural consequences of the action of the defendants acting under the color of law, irrespective of whether such consequences was intented. URY VS SANTEE, (1969 DC ILL).

C3. This section was passed to enforsu in the USC the 14th Amendment and to protect from interference the rights secured thereby, as well as other

Constitutional rights; it is directed against conspiracies of private persons; and their is no requirement that the conspiracy be under color of law. MULLARKEY VS BORGLUM, D.C. N.Y., 1970, 323 F SUPP. 1218, Quoted from USCA 1972 pocket oack 165, TITLE 42, SEC 1983, Note 2.

4.0 Concise statement of case.

4.1 Original source of case.

The appellant entered into a Conventional Loan Agreement contract with the Underwood's to make application for a loan and get an appraisal, and the sell of the house would be final when appellant got a loan. Appellant then approached Linda Burgess of Guaranty Federal Savings & Loan Association to make application for a loan with the understanding that the property had to appraise for the asking price before a loan would be made and granted. Linda Burgess suggested that Appellant assume the Underwood's mortgage to save money and that he had to get approval from the

Underwood's to assume their mortgage. Appellant then went to Daniel Underwood to get his permission to assume hismortgage. At the time Daniel Underwood insisted on using an Equity Purchase contract to assume the mortgage and add this to our Conventional Loan Agreement contract. Appellant agreed to do that and as soon as the contract was signed, the Conventional Loan Agreement was stolen by Daniel Underwood. The loan application was than completed with Linda Burgess, and appraisal of the property was made and was less than the asking price. Evidence of the Underwoods' approving Appellant getting an appraisal is shown in the fact that Daniel Underwood influenced the appraisal of $69,400 to be increased to $74,800. Appellant considered his contractual agreement obligation completed at this time since the property did not

appraise for theasking price and there was no loan made and/or granted. Linda Burgess said that they would not make a loan on that appraisal. Daniel Underwood then entered into a fraudulent contract with Linda Burgess to make an appraisal under his supervision, and Appellant told Underwood not to do that.Appellant did not agree to make a loan on Underwood's fraudulent appraisal obtained several weeks later. The Underwoods thensued Appellant for not making a loan and buying their house on that fraudulent appraisal of $77,200 because that is the amount that Guaranty Federal Savings & Loan would then grant a loan for and said that it was breach of contract. It is an absolute fact that Appellant is to get an appraisal when they want him to sign their standard printed forms and pay for anappraisal. Then after the

appraisal was completed, they want to change strategy and get another appraisal. Then Loyd Little, the attorney for the Underwood's, delayed having the trial for over a year. Appellant asked to have a trial date set and was ignored and then filed a malicious suit against Attorney Little and the Underwoods. The suit was filed one morning, and the next day Appellant received in the mail a notice for a pretrial hearing for the Underwood case CV 86-65W. The malicious suit case CV 87-18B was summarily dismissed a few days later, and then the Underwood trail was held. During the trial Linda Burgess testified that the fraudulent obtained appraisal for $77,200 was a good appraisal to be appliedtoAppellant's loan application, and Judge Watson used that testimony to dictate the verdict against Appellant. Appellant then sued

Judge Watson in Federal District Court, and Linda Burgess and Guaranty Federal Savings & Loan Association in State Court.

4.2 First time a question is presented. The first time a question is presented is in the suit against Judge Watson in Federal District Court in CV 87 HM-5340NE, "Petition For Inalienable Rights: Nullification of verdict and Action for Damages". The questions were presented as follows in the Petition to the District Court, filed August 24, 1987.

JURISDICTION

Jurisdiction of this Court is invoked pursuant to the a provisions of:

1. 28 U. S. C. Sec 1331, in that the district courts shall have original jurisdiction of all civil action arising under the Constitution, laws, or treaties of the United States.

2. The Fifth Amendment, U. S. Constitution, prohibiting the confiscation of private property without due process.

3. The Seventh Amendment, U. S. Constitution, preserving inviolate the absolute right to trial by jury in any tort at c~mmon law in which the amount in dispute exceeds twenty dollars.

4. The Fourteenth Amendment, U. S. Constitution, guaranteeing the Plaintiff the equal protection of the laws.

VENUE

5. Venue is proper under 28 U. S. C. Sec.1391(e)(1) and (2) in that the defendant(s) reside in and the cause of action took place in this judicial district.

PARTIES

6. Plaintiff John D. Snavely is a native born Pennsylvanian domicile in Alabama with residence address of 3516 Maggie Avenue NW, Huntsville, Al 35810.

7. Defendant Judge S. A. Watson works at the Madison County Courthouse, Huntsville, Al 35801.

FACTS

8. Plaintiff has had his Inalienable rights violated by the Defendant. In civil action suit CV86-65W in the Circuit Court of Madison County, Al, a jury trial, the Defendant violated the Plaintiff's U. S. Constitutional rights and Fifth, Seventh and Fourteenth Amendment civil rights.

9. During the trial, the Court:

a.turned hostile to this Plaintiff,

b. turned the public address system off to prevent the jury from hearing certain testimony,

c. dismissed a witness before this Plaintiff had an opportunity to fully question her,

d. rushed the proceedings,

e. dictated the verdict (21) against this Plaintiffin spite of evidence of obvious fraud being committed to this Plaintiff,

f. and intimidated the jury to award an outrageous damage amount, Appendix A, which allowed a real estate salesman andhis lawyer, buddy to the judge. to rob this Plaintiff.

LEGAL CLAIMS

10. For the reasons given hereinabove the Plaintiff believes he has cognizable claims against the Defendant for:

Abuse of process,

Depriving the Plaintiff of his Inalienable rights to have a trial by jury in violation of the U. S. Constitution and the Fifth, Seventh, and Fourteenth Amendments to the U. S. Constitution where the jury determines the facts and the law.

RELIEF REQUESTED.

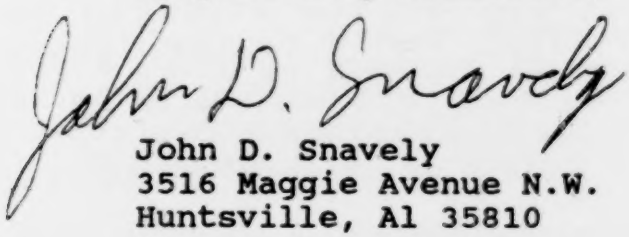
1. A Writ for Nullification of the Verdict andvoiding the court order against this Plaintiff in civil action suit CV86-65W in the Circuit Court of Madison County.

2. Compensatory damages in the amount of $7,500 for the cost incurred in settling CV86-65W.

3. Punitive damages in the amount the jury may feel is justifiable.

4. Trial by jury on all issues trialable by jury.

Respectfully Submitted,



John D. Snavely
3516 Maggie Avenue N.W.
Huntsville, Al 35810

The case was dismissed on the grounds that the complaint failed to state a claim for which relief could be granted. The case was then appealed to, the Eleventh Circuit Court of Appeals. The appeal was affirmed May 3, 1988 under Eleventh Circuit Rule 36.1 (A6). A rehearing was requested.

4.3 Second source of case.

Inthe meantime, theAppellantfiled CV 87-1649Y suit on October 7, 1987 for Contract Fraud Against Linda Burgess and Guaranty Federal Savings & Loan Association. The suit was summarily dismiss on a motion to dismiss for the complaint fails to state a claim upon which relief can be granted against the defendants (A25-A27).

4.4 Second time a question is presented.

The Appellant then filed CV 88-5143 on March 28, 1988 against Judge Younger a Petition For Constitutional Rights; Nullification of Summary Judgment and rightto trial by jury, in the Federal District Court for the Northern District of Alabama.

JURISDICTION

Jurisdiction of this Court is invoked pursuant to the provisions of:

1. 28 U. S. C. Sec 1331, in that the

district courts shall have original jurisdiction of all civil action arising under the Constitution, laws, or treaties of the United States.

2. Due process of Law, U. S. Constitution.

3. The Seventh Amendment, U. S. Constitution, preserving inviolate the absolute right to trial by jury in any tort at common law in which the amount in dispute exceeds twenty dollars. guaranteeing the Plaintiff the equal protection of the laws.

4. Alabama Constitution; sections 10, 11 and 13 Alabama Constitution.

5. 42 U. S. C. Sec 1983, making public officials acting under color of law liable for deprivation of Constitutionalrights.

VENUE

4. Venue is proper under 28 U. S. C. Sec 1391(e)(1) and (2) in that the defendant(s) reside in and the cause of action took place in this judicial district.

PARTIES

5. Plaintiff John D. Snavely is a native born Pennsylvanian domicile in Alabama with residence address of 3516 Maggie Avenue NW, Huntsville, Al 35810.

6. Defendant Judge Thmoas Younger works at the Madison County Courthouse, Huntsville, Al 35801.

FACTS

7. Plaintiff has had his Inalienable rights violatedby the Defendant. In civil action suit CV86-1649Y in the Circuit Court of Madison County, Al, a jury trial, the Defendant violated the Plaintiff's U. S. Constitutional rights and Seventh Amendment civil rights.

8. During the pretrial motions, the Court issued a Summary Judgment order to dismiss the case without a jury trial, Appendix A.

LEGAL CLAIMS

9. For the reasons given hereinabove the Plaintiff believes he has cognizable claims against the Defendant for:

Abuse of process,

Depriving the Plaintiff of his Inalienable rights to have a trial by jury in violation of the U. S. Constitution, due process of law, the Seventh Amendment to the U. S. Constitution, Alabama Constitution and sections 10, 11, 13 Alabama Constitution where the jury determines the facts and the law.

RELIEF REQUESTED

1. A Writ for Nullification of the Summary Judgment order against this Plaintiff in civil action suit CV87-1649Y in the Circuit Court of Madison County.

2. Compensatory damages in the amount of $7,500 for the cost incurred in settling CV86-65W, the relief requested in CV87- 1649Y.

3. Damages in the amount of $50,000 compensatory for causing emotional suffering with physical pain and disorientation at times, the relief requested in CV87-1649Y.

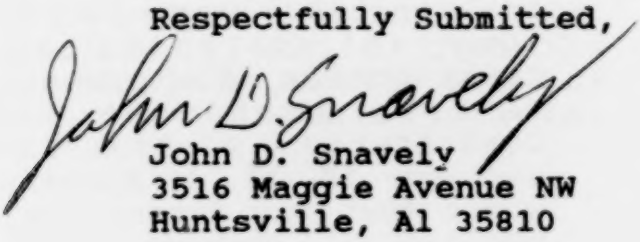
4. Punitive damages in the amount of $ 100,000, the relief requested in CV87-1649Y.

5. Trial by jury on all issues trialable by jury.

6. The Plaintiff's cost in this action.

7. A Writ of Mandamus to have a jury trial in civil action suit CV87-1649Y in the Circuit Court of Madison County.

Respectfully Submitted,



John D. Snavely
3516 Maggie Avenue NW
Huntsville, Al 35810

4.5 District Court hears second question pesented:

The District Court considered to hear the following:

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E1. CV 87-1649Y suit against Linda Burgess.

E2. Answers to complaint of CV 87-1649Y.

E3. Interrogatories for Linda Burgess and answers.

E4. Affidavit from Linda Burgess.

E5. Final Judgment for CV 86-65W.

E6. Copy loan application.

E7. Copy of cover letter for first appraisal.

E8. Rebuttal to motion to dismiss case CV 87-1649Y.

E9. Summary judgment to dismiss case.

E10. Motion for Summary Judgment in CV 87-1649Y.

AFFIDAVIT

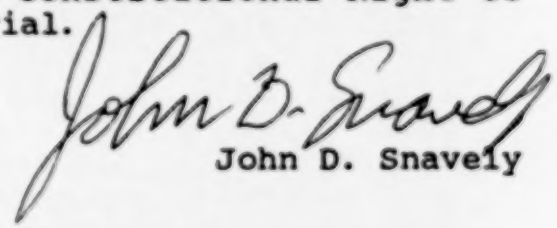
I am John D. Snavely and I am over 21. This is my personal knowledge of this case, and CV87-1649Y Snavely v.

Burgess, et al., and CV 86-65W Underwood v. Snavely in the Circuit Court of Madison County.

In October of 1985, John D. Snavely entered into a Conventional Loan Agreement contract with the Underwood's to make application for a loan and get an appraisal, and the sell of the house would be final when Snavely got a loan. Snavely then approached Linda Burgess of Guaranty Federal Savings & Loan Association to make application for a loan with the understanding that the property had to appraise for the asking price before a loan would be made and granted. Linda Burgess suggested that Snavely assume the Underwood's mortgage to save money and that he had to get approval from the Underwood's to assume their mortgage. Snavely then went to the Daniel Underwood to get his permission to assume his mortgage. At this time Daniel Underwood insisted on using an Equity Purchase contract to assume the mortgage and add this to our Conventional Loan Agreement contract. Snavely agreed to do that and as soon as the contract was signed, the Conventional Loan Agreement was stolen by Daniel Underwood. The loan application was than completed with Linda Burgess and appraisal of the property was made and was less than the asking price. Evidence of the Underwoods' approving Snavely getting an appraisal is shown in the fact that Daniel Underwood influenced the appraisal of $69,400 to be increased to $74,800. Snavely considered his contractual agreement obligation completed atthis time since the property did not appraise for the asking

price and there was no loan made and/or granted. Linda Burgess said that they would not make a loan on that appraisal. Daniel Underwood then entered into a fraudulent contract with Linda Burgess to make an appraisal under his supervision and Snavely told Underwood not to do that. Snavely did not agree to make a loan on Underwood's fraudulent appraisal obtained several weeks later. The Underwoods then sued Snavely for not making a loan and buying their house on that fraudulent appraisal of $77,200 because that is the amount that Guaranty Federal Savings & Loan would then grant a loan for and said that it was breach of contract. It is an absolute fact that Snavely is to get an appraisal when they want him to sign their standard printed forms and pay for an appraisal. Then after the appraisal was completed, they want to change strategy and get another appraisal. Then Loyd Little, the attorney for the Underwood's, delayed having the trial for over a year. Snavely asked to have a trial date set and was ignored and then filed a malicious suit against Attorney Little and the Underwoods. The suit was filed one morning, and the next day Snavely received in the mail a notice for a pretrial hearing for the Underwood case CV 86-65W and the malicious suit case CV 87-18B was summarily dismissed a few days later, and then the Underwood trial was held. During the trial Linda Burgess testified that thefraudulent obtained appraisal for $77,200 was a good appraisal to be applied to Snavely's loan application and Judge Watson used that testimony to dictate the verdict against Snavely. Judge Watson rushed the proceedings then

intimidated the jury into awarding a large damage amount. Snavely was not allowed to present his defense and argue his case before a jury. This is fraud being committed against Snavely. Then Snavely sued Judge Watson in Federal Court for violating his Constitutional Rights, for dictating the verdict to the jury, and sued Linda Burgess and Guaranty Federal Savings & Loan Association in Madison County Court for contract fraud, for entering into a contract with Daniel Underwood to have his property appraised under his supervision and for applying the appraisal to Snavely. The creditability of the trial and Final Judgment of CV 86-65W is lacking in authoritativeness due to the fraud being committed. Judge Younger summarily dismissed the case against Linda Burgess & Guaranty Federal Savings & Loan Association and denied Snavely to a trial by Jury, thus violating his Constitutional Right to have a jury trial.



John D. Snavely

RELEVANT UNDISPUTED MATERIAL FACTS

The relevant undisputed material facts are:

UDF1. Snavely made a loan application with Linda Burgess of Guaranty Federal Savings & Loan Association,Exhibits E3 interrogatory P1 # 1, answer P1 # 1 of Linda Burgess, and E6 loan applications.

UDF2. Snavely paid Linda Burgess to

have the property appraised and Linda Burgess had the property appraised, Exhibits E3 interrogatory P1 # 2, answer P1 # 2, and E7 cover letter for first appraisal.

UDF3. The appraisal made for Snavely was for $69,400, Exhibits E3 interrogatory P1 # 2, answer P1 # 2 and E7 cover letter for first appraisal Para. 2 line 3.

UDF4. Daniel Underwood influenced the appraisal to be raised from $69,400 to $74,800, Exhibits E3 interrogatory P1 # 3, answer P1 # 3, and E7 cover letter for first appraisal Para. 3, line 4.

UDF5. There was an appraisal made for and paid for by Daniel Underwood, Exhibits E3 interrogatories P2 # 8 & 9 and answers P2 # 8 & 9.

UDF6. Due to the appraisal made for Underwood, a judgment was awarded against Snavely for $10,395 for refusing to make a loan on the appraisal made for the Underwoods, Exhibit E5 Final Judgment Para. 3, lines 19 thru 21.

UDF7. The case Snavely v. Burgess CV 87-1649Y was dismissed by summary judgment, Exhibit E9.

RELEVANT DISPUTED FACTS

The relevant disputed facts are:

DF1. The appraisal made for Daniel Underwood, is it a fraud?, Exhibit E3 interrogatory P2 # 8 and answer P2 # 8.

DF2. When Snavely's contract was completed or terminated with Guaranty Federal, Exhibits E1 CV 87-1649Y Para. 3, lines 6 thru 9 and E4 Affidavit from Linda Burgess Para. 2, lines 10 thru 15.

DF3. The Motion for Summary Judgment in CV 87-1649Y, Exhibit E10.

DF4. Snavely has a Constitutional Right to have a jury a trial in CV 87-1649Y, Exhibits E9Summary Judgment to Dismiss and E8 Rebuttal to the Motion to Dismiss.

EVIDENTIARY MATTER

E1. CV 87-1649Y suit against Linda Burgess.

E2. Answers to complaint of CV 87-1649Y.

E3. Interrogatories for Linda Burgess and answers.

E4. Affidavit from Linda Burgess.

E5. Final Judgment for CV 86-65W.

E6. Copy loan application.

E7. Copy of cover letter for first appraisal.

E8. Rebuttal to motion to dismiss case CV 87-1649Y.

E9. Summary judgment to dismiss case.

E10. Motion for Summary Judgment in CV 87-1649Y.

4.6 Second case dismissed.

The case was dismissed with prejudice May 31, 1988 (A14-A19). This same material was entered into the case CV 87-7550 onthe motionfor a rehearing in the Appeals Court. The rehearing was denied May 31, 1988 (A8).

4.7 Motion to Prohibit.

A motion to prohibit the Executive Branch of the State of Alabama from defending the Judicial Branch of the State was entered in both of these actions and was denied (A1-A3).

4.8 District and Appeals Courts not Constitutional Courts.

The Appellant has become aware that the District and Appeals Courts are courts of Admiralty Jurisdiction and not Constitutional Courts and now appeals to the Supreme Court for resolution of this appeal.

4.9 Appellant assumes State Courts are

Constitutional Courts.

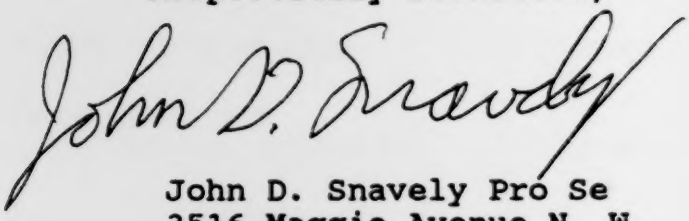
The Appellant assumed that the State Courts are Constitutional Courts since no other type is lawful. The State has brought up the question of jurisdiction in the arguments of this case.

4.10 The reasons why these questions are so substantial are:

4.10.1 They are basic to the clear language of the Unites States Constitution and Bill of Rights; and the questions bring up contradictions in the practice of the law and the United States Constitution and Bill of rights from which the Constitution of Alabama wasconstructed as said in the Preamble to their Constitution.

4.10.2 The Appellant has had his Constitutional Rights and Bill of Rights violated according to the clear language of the Constitution and Bill of Rights.

Respectfully submitted,



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Appendix Jurisdictional Statement

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UNITED STATES COURT OF APPEAL
Eleventh Circuit
56 Fortyth Street N. W.
Atlanta, Ga 30303
Miguel J. Cortez
Clerk January 4, 1988

MEMORANDUM TO ADDRESSES LISTED BELOW

NO. 87-7550 Snavely v. Watson

The following action has been taken in the referenced case:

_X_ The enclosed order has been ENTERED.

___ An extension of time has been granted to and including

___for filling appellant's/petitioner's brief.

___for filling appellant's/respondent's brief.

___for filling replybrief.

___for filling a petition for rehearing, which is due to be filed in the clerk's office on said date.

___for filling _____.

___this extension is granted subject to the condition that no additional extension will be requested by the movant and that the specified document will be filled on or before this new date.

___Motion to consolidate granted.

___Motion to supplement or correct the record granted.

Sincerely,

Miguel J. Cortez, Clerk

cc.w/encl: John D. Snavely By
Gregory O. Griffin Deputy Clerk
AAG, Montgomery, Al

UNITED STATES COURT OF APPEAL
Eleventh Circuit
56 Fortyth Street N. W.
Atlanta, Ga 30303
Miguel J. Cortez
Clerk January 4, 1988

JOHN D. SNAVELY,
Plaintiff-Appellant,

versus

S. A. WATSON, JR,
Defendant-Appellee.

On Appeal from the United States District Court for the Northern District of Alabama

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ORDER:

Appellant's motion to prohibit the State of Alabama's Attorney General from representation of defendant-appellee is DENIED.

/s/ JOSEPH W. HATCHETT
UNITED STATES CIRCUIT JUDGE

UNITED STATES COURT OF APPEAL
Eleventh Circuit
56 Fortyth Street N. W.
Atlanta, Ga 30303

Miguel J. Cortez
Clerk June 15, 1988

Clerk
U. S. District Court
140 Federal Courthouse
5th Avenue, North

NO. 87-7550 Snavely v. Watson
CV87-HN-5430-NE

( ) Enclosed is a certified copy of the judgment of this court in the above case issued as and for the mandate.

(x) Enclosed is a certified copy of the Rule 36-1 Decision in the above case issued as and for the mandate.

( ) Motion for stay of mandate having been denied in the above case, enclosed is a certified copy of the judgment of this court in the above case issued as and for the mandate.

( ) The Supreme Court having denied certiorari in the above case, enclosed is a certified copy of the judgment of this court in the above case issued as and for the mandate.

( ) We have received notice that the Supreme Court has denied certiorari in the above case. This court's judgment as mandate having already issued, no further order will be forthcoming.

Also enclosed are the following:

( ) Copy of this court's opinion.

( ) Bill of cost.
( ) Original Exhibits.
() Original Record on Appeal orreview, will be returned at a later date.

Sincerely,

Miguel J. Cortez, Clerk

cc.w/encl: John D. Snavely By
Gregory O. Griffin Deputy Clerk
AAG, Montgomery, Al

UNITED STATES COURT OF APPEAL
Eleventh Circuit
56 Fortyth Street N. W.
Atlanta, Ga 30303

No. 87-7550
Non-Argument Calander

D.C. Docket No. 87-5340

JOHN D. SNAVELY,
Plaintiff-Appellant,

versus

S. A. WATSON, JR,
Defendant-Appellee.

On Appeal from the United States District Court for the Northern District of Alabama

---

(May 3, 1988)

Before TJOFLAT, VANCE and CLARK, Circuit Judges.

PER CURIAM:

AFFIRMED. See 11th Cir. R. 36-1 "Coststaxed against plaintiff-appellant.'
Judgment entered: May 3, 1988
For the Court:Miguil J. Cortez,Clerk

BY_____
Deputy Clerk
ISSUED AS MANDATE: JUN 15, 1988

UNITED STATES COURT OF APPEAL
Eleventh Circuit
56 Fortyth Street N. W.
Atlanta, Ga 30303
Miguel J. Cortez
Clerk May 31, 1988

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

NO. 87-7550 Snavely v. Watson

The enclosed order has been entered on petitioner for rehearing.

See Rule 41. Federal Rules of Appellant Procedure, and Eleventh Circuit Rule 41-1 for information regarding issuance and stay of mandate.

Sincerely,

Miguel J. Cortez, Clerk

cc.w/encl: John D. Snavely By
Gregory O. Griffin Deputy Clerk
AAG, Montgomery, Al

UNITED STATES COURT OF APPEAL
Eleventh Circuit
May 31, 1988

No. 87-7550

D.C. Docket No. 87-5340

JOHN D. SNAVELY,
Plaintiff-Appellant,

versus

S. A. WATSON, JR,
Defendant-Appellee.

On Appeal from the United States District Court for the Northern District of Alabama

---

ON PETITION FOR REHEARING

Before TJOFLAT, VANCE and CLARK, Circuit Judges.

PER CURIAM:

The petition for rehearing file by appellant is denied,

Entered for the Court:

_____
United States Circuit Judge

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

JOHND. SNAVELY Plaintiff vs. THOMAS YOUNGER Defendant.	)	Civil Action No. 87 Hm5143NE

ORDER

Pursuant to the filing on April 18, 1988 of motion to dismiss, or, in the alternative, for summary judgment by defendant in the above entitled civil action, the Court hereby treats the motion as one for summary judgment pursuant to Rule 56 , Fed.R. Civ.P. and ORDERS that the motion for summary judgment will be taken under submission on the 15th day of May 1988.

It is further ORDERED that all evidentiary matter to be offered in support of and in opposition to such motion for summary judgment (affidavits,

depositions, answers to interrogatories, et cetera) Must be filed with the Clerk of this Court on or prior to the submission date mentioned above.

It is further ORDERED that each movant for summary judgment in this case file in the office if the Clerk of this Court (not the office of the undersigned Judge) on or before the submission date herein a clear and concise statement of the relevant undisputed material facts shown in the evidentiary record herein which he relies to support such summary judgment motion with citations to theevidentiary record where each such relevant material fact appears (example, p. __, line ___, of deposition of _____; answer of_____to_____'s 6th interrogatory, etc.). Mere reference to that portion of the evidentiaryrecord where such relevant material fact or facts may be found (without setting out

the fact or facts relied upon) is insufficient. And it is further

ORDERED that each party who opposes the granting of summary judgment on the ground that such summary judgment is due to be denied because material fact relevant thereto are disputed shall file in the office of the Clerk of this Court (not the office of the undersigned Judge) on or before the submission date herein a clear and concise statement of the relevant disputed material facts shown in the evidentiary record herein which he relies to support such summary judgment motion with citations to the evidentiary record where each such relevant material fact appears (example, p. __, line ___, of deposition of _____; answer of_____to_____'s 6th interrogatory, etc.). Mere reference to that portion of the evidentiary record where such relevant material fact or

facts may be found (without setting out the fact or facts relied upon) is insufficient. And it is further

ORDERED that notice is hereby given to each party who opposes the granting of summary judgment on the ("adverse party") such adverse party may not rest upon the mere allegation or denials of the adverse party's pleadings but the adverse party's response, by affidavits and/or other evidantiary matter (depositions, answers to interrogatories, admissions on file,etc.), must set forth specific facts showing there is a genuine issue for trial. If the party who opposes a granting of summary judgment ("adverse party") does not respond, summary judgment, if appropriate, shall be entered against the adverse party, And it is further

ORDERED that all written briefs of counsel in support of and in opposition

to the motion for summary judgment MUST be filed in the office of Judge E. B. Haltom, (NOT THE CLERK) on or prior to the submission date mentioned above.

DONE and ORDERED this 19th day of April, 1988.

PAUL W. GREENE
UNITED STATES MAGISTRATE

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

JOHND. SNAVELY	)	
Plaintiff	)	
vs.	)	
	)	
THOMAS YOUNGER	)	
Defendant.	)	Civil Action
	)	No. 87 Hm5143NE

MEMORANDUM OF DECISION

The above entitled civil action is before the Court upon the alternative motion of defendant The Honorable Thomas Younger to dismiss or for summary judgment. ~For the reasons set out below, the Court is of the opinion that such motion for summary judgment should be granted.

The plaintiff, John D. Snavely, brought this action against the Honorable Thomas Younger, Circuit Court Judge for Madison County, Alabama, seeking damages and other relief based on a deprivation of his seventh and fourteenth amendment rights in connection with a trial before

Judge Younger in which Snavely was the defendant./2

/2 Snavely instituted a suit against Guaranty Federal Savings and Loan and one of its loan officers, Linda Burgess, in the case before JudgeYounger asa result of an adversedecision (via directed verdict) thatbereceived before Judge S. A. Watson wherein the sellers ofa house that Snavely had contracted for successfully sued him for the purchase price balance. Snavely then sued Judge Watson in this same Court on similar grounds to those herein asserted.This Court grantedJudge Watson's Rule12(b)(6) motion for directed verdict and was affirmed on appeal in the eleventh Circuit in an unpublished per curiam (Docket No. 87-7550).

In essence, the plaintiff charged that Judge Younger's granting summary judgment in favor of the defendants in Snavely v. Linda Burgess and Guaranty Federal Savings & Loan Association (CV 87-1649Y) deprived him of his constitutional (both federal and state) rights, specifically his seventh amendment right to trial by jury, and that a cause of action lies

against Judge Younger under the enabling language of 42 U.S.C. Sec. 1983 for such deprivation.

Because well settled principles of law govern each cause of action alleged by the plaintiff against Judge Younger, the decision of this Court is easily reached.

Plaintiff's claim that Judge Younger's granting of summary judgment against him deprived him of his seventh amendment right to a jury trial fails since the seventh amendment to the U. S. Constitution was never incorporated in the fourteenth amendment and, therefore, is not binding on the states. Minneapolis & St. L.R.R. v. Bombolis, 241 U.S. 211, 217 (1916). As such, no federal cause of action for such an alleged violation can lie. Snavely's obvious recourse from such an adverse ruling before Judge Younger would have been an appeal through the state courts.

Similarly, the rest of Snavely's claim is due to be dismissed under the judicial immunity doctrine of Sec. 1983 which shields judges in all but the most limited circumstances. As the Supreme Court said in Pierson v. Ray, 386 U.S. 547 (1966):

> Few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction, an this Court recognized when it adopted the doctrine, in Bradley v. Fisher, 13 Wall. 335 (1872). This immunity applies even when the judge is accused of acting maliciously and corruptly, and it is not for the protection or benefit of the of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences. (Scott v. Stansfield, L.R.3 Ex220, 223 (1858), quoted in Bradley v. Fisher, supra, 349, note, at 350). It is a judge's duty to decide all cases within his jurisdiction that are brought before him, including controversial cases that arouse the most intense feelings in the litigants. is errors may be corrected on appeal, but he should not have to fear that unsatisfied litigants may hound him with

> litigation charging malice or corruption. Imposing such a burden on a judge would contribute not to principle and fearless decision making but to intimidation.
>
> We do not believe that this settled principle was abolished by Sec 1983, which makes liable every who under color of law deprives another person of his civil rights. The legislative record gives no clear indication that Congress meant to abolish wholesale all common-law immunities.

Id. at 553-554. See also Stump v. Sparkman, 435 U.S. 345, 355-56 (1977).

Accordingly, this action will be dismissed with prejudice, all costs to be taxed against the plaintiff. A separate will issue.

Done this 27th day of May, 1988.

UNITED STATES DISTRICT JUDGE

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

JOHND. SNAVELY	)	
Plaintiff	)	
vs.	)	
.	)	
THOMAS YOUNGER	)	
Defendant.	)	Civil Action
	)	No. 87 Hm5143NE

ORDER

The above entitled civil action is before the Court upon defendant's Rule (12)(B) motion to dismiss this cause for failure to state a claim to state a claim for which relief can be granted or, in the alternative, defendant's Rule 56 motion for summary judgment with respect to all claims asserted by plaintiff in the above referenced action.

Having considered such alternative motions for dismissal and summary judgment, all evidentiary matter offered in support thereof and in opposition thereto, the pleadings and applicable law, the Court is of the opinion that

such motion/1 is due to be granted. Therefore in accordance with the Memorandum of Decision entered contemporaneously herewith, it is

ORDERED, ADJUDGED and DECREED the Rule 56 motion of the defendant Thomas Younger summary judgment in his favor and against the plaintiff all claims asserted by the plaintiff in this case is hereby GRANTED and ENTERED and that this action is dismissed with prejudice. Cost are taxed against the plaintiff.

Done this 27th day of May, 1988.

UNITED STATES DISTRICT JUDGE

/1 By order entered April 19, 1988, this Court ordered that the alternative motion plead in defendant's motion of April 18, 1988 would be treated as one for summary judgment with a submission date set for May 15, 1988. That date having now past, this cause is now properly before the Court for ruling on the summary judgment motion.

IN THE CIRCUIT COURT FOR MADISON COUNTY

DANIEL E. UNDERWOOD AND
DEBRAH B. UNDERWOOD,

Plaintiffs,

vs.

CIVIL ACTION NO.
CV 86-65W

JOHN D. SNAVELY,

Defendant.

FINAL JUDGMENT

This cause came on for trial April 7, 1987, on the Plaintiffs' claim for damages as a result of an alleged breach of contract, involving an equity Purchase Contract entered into by the parties on October 8, 1985. The defendant entered a general denial; a jury was duly impaneled at the request of the Defendant.

At the conclusion of the Plaintiffs' case the Plaintiff moved for a directed verdict as to the issue of liability, contending as a matter of law the Defendant had breached his contract the Equity Purchase Contract of October 8, 1985, After considering said motion the

Court reserved ruling on the motion in order for the Defendant to present any further evidence or defenses. The Defense called his witnesses including the Plaintiff DANIEL E. UNDERWOOD, and the Defendant also testified again on his own behalf, following which the Defendant rested.

Following the close of the Defendant's case, the Plaintiffs reasserted their motion for a directed verdict on the issue of liability; i.e., whether or not the Defendant had breached the contract of October 8, 1985 as a matter of law. The Court considered said motion by reviewing the evidence presented, together with the exhibits entered into evidence, and review the evidence and exhibits in the light most favorable to the Defendant. After a careful review of the evidence and exhibits the Court the Court is of the opinion that the

Defendant, JOHN D. SNAVELY, breached the equity purchase contract dated October 8, 1985, as a matter of law, and that no evidence has been presented to justify or excuse said breach. Therefore, the jury was reconvened, and the Court directed the jury to return a verdict in favor of the Plaintiffs and against the Defendant. The Court then instructed the jury as to the law of damages, thereafter instructing the jury as to the law to retire and consider their verdict, following which the jury returned and gave the following verdict:

> We the jury find the issue in favor of the Plaintiff and assess damages at TEN THOUSAND THREE HUNDRED NINETY-FIVE and NO/100 DOLLARS (10,395.00).
>
> /s/ James Kinney Forman

It is therefore, ORDERED, ADJUDGED and DECREED that the Plaintiffs have and recover of the Defendant, JOHN D. SNAVELY the sum of TEN THOUSAND THREE HUNDRED NINETY-FIVE and NO/100 DOLLARS (10,395.00) and costs, for all of which execution may issue pursuant to the Alabama Rules of Civil Procedure.

DATED this the 22 day of April, 1987.

S. A. Watson Jr., Circuit Judge

IN THE CIRCUIT COURT FOR MADISON COUNTY

JOHN D. SNAVELY,

Plaintiffs,

vs.

CIVIL ACTION NO.
CV 87-1649Y

LINDA BURGESS, &
GUARANTY FEDERAL
SAVINGS & LOAN
ASSOCIATION

Defendants.

ORDER RE: MOTION FOR SUMMARY JUDGMENT

This cause came to be heard upon the "Motion for Summary Judgment" of the Defendants, LINDA BURGESS, and GUARANTY FEDERAL SAVING & LOAN ASSOCIATION, filed November 10, 1987. and upon considering the brief, affidavit of Linda Burgess and other material submitted to it, the Court has determined summary judgment is appropriate.

It is, therefore, ORDERED, ADJUDGED and DECREED follows:

It appears that there is no genuine issue as to any material fact and that the defendants, LINDA BURGESS, and

GUARANTY FEDERAL SAVING & LOAN ASSOCIATION, are entitled to a judegment as a matter of law, the foregoing Motion for Summary Judgment is granted. A summary judgment is rendered in favor of said defendants, and they are dismissed as a party of this action. Said judgment is with the express determination that there is no just reason for delay.

Done and Ordered this 19th day of December 1987.

_____
Circuit Judge

Copies to

John D. Snavely
3516 Maggie Avenue NW
Huntsville, Al 35810

Russell Q. Allison
Dominick, Fletcher, Yielding,
Xood, Lloyd, P.A.
2121 Highlands Avenue
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Birmingham, Al 35201

IN THE CIRCUIT COURT FOR MADISON COUNTY

JOHN D. SNAVELY,

Plaintiffs,

vs.

CIVIL ACTION NO.
CV 87-1649Y

LINDA BURGESS, &
GUARANTY FEDERAL
SAVINGS & LOAN
ASSOCIATION

Defendants.

ORDER

This cause came on for hearing by the Court on the Motion by the Plaintiff to reconsider the summary judgment, the Plaintiff being present in Open Court Pro Se, the Defendents represented by the Honorable Russell Q. Allison, the Court having heard argument by the Plaintiff and the Attorney for the Defendants, upon consideration of said Motion and arguments is of the opinion that the Motion to Reconsider the Summary Judgment is not well taken and is due to be denied. IT is therefore,

ORDERED, ADJUDGED and DECREED that the

motion by the Plaintiff to Reconsider the Summary Judgment be and the same is hereby denied and overruled.

This the 4th day of March, 1988.

_____

Thomas Younger
Circuit Judge

IN THE
UNITED STATES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT
ATLANTA, GA

JOHND. SNAVELY	)	Civil Action
Plaintiff-Appellant,	)	No 87-7550
vs.	)	APPEAL FROM THE
	)	UNITED STATES
	)	DISTRICT COURT
S. A. WATSON, Jr.	)	FOR THE NORTHERN
Defendant-Appellee.	)	DISTRICT OF ALABAMA.
	)	Civil Action
	)	No. 87 Hm5340NE

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

JOHND. SNAVELY)	Civil Action No 88-HM-
Plaintiff,)	5143 Petition For
vs.)	Constitutional Rights;
)	Nullification of Summary
)	Judgment and right to
)	trial by jury.
THOMAS YOUNGER)	
Defendant.)	
)	

NOTICE TO APPEAL TO THE UNITED STATES

SUPREME COURT

Notice is hereby given that John D. Snavely, Petitionerabove named, hereby appeals to The Supreme Court of the

United States from the Entry of Judgment by the United States Court of Appeals entered in the above action CV 87-7550 enteredMay 31, 1988, andfrom the Entry of Judgment by the District Court of Northern Alabama in above action CV-HM-5143-NE, entered May 31, 1988, since the two cases are the outcome of the same action and are of the same type issue.

The statute under which this appeal is taken to the United States Supreme Court is Title 42 Sec. 1983.

John D. Snavely, Pro Se
3516 Maggie Ave NW
Huntsville, Al 35810